

**CITY OF SHORELINE
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION OR RECOMMENDATION

APPELLANT: Jane Cho, et al.

FILE NO.: 1998-00380

APPEALS: SEPA Mitigated Determination of Non Significance and Planning
Commission Recommendation for the Plat of Hayley Estates
Preliminary Subdivision

REVIEW PROCESS: This is a closed record appeal with the decision on the MDNS
being made by the Hearing Examiner and a recommendation to
City Council being made on the Preliminary Subdivision.

BACKGROUND INFORMATION:

A. Location and Neighborhood:

The subject property is located in the Richmond Beach Neighborhood of Shoreline, having a street address of 640 NW 180th Street. The legal description is included in the staff report. The subject property is currently occupied by a single family residence and a detached garage (both located on proposed lot 11). The existing house is set back approximately 160 feet from the NW 180th Street right of way and is substantially screened from the public roads and adjacent development by a mix of mature vegetation and wooden fencing. The garage is located immediately to the southwest of the existing house. Both structures are in good condition and would be retained in the event of plat approval. A large playing field area occupies most of the eastern portion of the property and smaller lawn areas lie to the north and west of the existing house. While a number of significant trees are scattered across the eastern and northern portions of the property, they are mainly concentrated in the west and southwestern areas. The property is generally flat with an average slope of approximately 2%. Some of this can be attributed to the fact that the eastern portion of the site was filled under the authority of a grading permit issued by King County several years ago. None of the property has been designated as environmentally sensitive under the Environmentally Sensitive Areas standards of the Shoreline Zoning Code (SMC 18.24).

The dominant land use in the area surrounding the proposed subdivision is single family residential. Sunset Elementary School is located approximately 3 blocks southwest of the project site and both the Boeing Creek Open Space and Shoreview Park are situated approximately five blocks to the south, at the intersection of NW 175th Street and 6th Avenue NW. The nearest multi-family residential development and commercial development is located some six blocks to the north along Richmond Beach Road.

B. Project Description:

The proposal is to formally subdivide (Long Plat) the subject property known into a total of fourteen (14) residential building lots. The property is 2.41 acres in size and entirely zoned R-6 residential. The average size of the proposed lots (excluding the proposed access tracts) would be 6,603 square feet. Lot 1 of the proposed subdivision would be 5,642 Sq. Ft. in size, Lot 2: 5,134 Sq. Ft., Lot 3: 5,132 Sq. Ft., Lot 4: 6,155 Sq. Ft., Lot 5: 6,025 Sq. Ft., Lot 6: 6,024 Sq. Ft., Lot 7: 6,022 Sq. Ft., Lot 8: 5,391 Sq. Ft., Lot 9: 5,391 Sq. Ft., Lot 10: 5,391 Sq. Ft., Lot 11: 18,766 Sq. Ft., Lot 12: 5,720 Sq. Ft., Lot 13: 5,720 Sq. Ft. Lot 14: 5,924 Sq. Ft. All these proposed lot sizes conformed with the lot size standards for the R-6 zone that were in effect at the time the application was determined to be complete.

The existing house and garage would be preserved as Lot 11 of the proposed subdivision, with access being provided by a private driveway leading directly to NW 180th Street. Lots 8, 9 and 10 of the proposal would also have direct road access onto NW 180th street, while lots 5, 6 and 7 would have direct access onto 6th Avenue Northwest. Lots 1 through 4 and 12, 13 and 14 would be served by a new public road (identified as Access Tract A), that would also feed onto 6th Avenue NW.

C. Comprehensive Plan Designation

The land use design adopted by the 1994 King County Comprehensive Plan designated this part of the Richmond Beach Neighborhood for medium density urban residential development (UM designation, 4-12 residential units per acre). The King County plan was adopted for interim planning purposes by the City of Shoreline during its incorporation process in 1995. In accordance with the requirements of the Growth Management Act, the entire city is designated as an Urban Growth Area by the plan.

The staff report identified a number of applicable policies from the King County Comprehensive Plan (Adopted by the Shoreline City Council under Ordinance No. 10, on July 10, 1995) which address the form and pattern of new development envisaged for existing residential areas.

D. Zoning Designation

The subject property is currently zoned R-6 (Residential, six dwelling units per acre). This is the most frequently occurring zoning designation found in the City of Shoreline, with approximately 85% of the City being assigned to this zone. The purpose of the residential zones (including R-6) are specified in Subsection 18.04.080 of the Shoreline Municipal Code (SMC). The purpose of the urban residential zone (R) is to implement comprehensive plan goals and policies for housing quality, diversity and affordability, and to efficiently use residential land, public services and energy.

E. Transportation, Infrastructure and Utilities

Two public roads serve the property: 6th Avenue NW runs immediately adjacent to the eastern property boundary, while NW 180th Street lies against the southern property boundary. This portion of NW 180th Street, linking 6th Avenue NW and 8th Avenue NW, has been designated as a Collector Arterial by the Public Works Department.

Not all urban facilities are available in the immediate area of the proposal. No sidewalks are currently provided along either 6th Avenue NW or NW 180th Street. The certificate of water availability issued for the proposal indicates that water service for the 14 lots is available from a 6" diameter main located in 6th Avenue NW. This main is described as 'substandard' on the Certificate of Water Availability issued by Seattle Public Utilities. This certificate requires, as a condition of service, that prior to any building permits being issued, the applicant must design and install approximately 385 feet of 4" diameter water main in an easement running from 6th Avenue NW to Lot 11 of the proposed subdivision. Review of the proposal by the Shoreline Fire Department for conformance with adopted fire flow requirements found that the proposed water system should be upgraded to use either 6" or 8" diameter mains (depending upon system design). This Fire Department design requirement was adopted as one of the preliminary plat approval conditions by the Planning Commission. Sewer service was approved for the proposal subject to the applicant agreeing to extend the nearest sewer mainline.

F. Procedural History

An application for preliminary formal subdivision of this property was first submitted to the Planning and Development Services Department on March 2, 1998. Site and engineering review of the proposal were completed in mid July of 1998 and review of the proposal under the State Environmental Policy Act (SEPA) was completed on July 13, 1998, when Planning and Development Services issued a Mitigated Determination of Non-Significance (MDNS), (Exhibit F, Attachment A). Notification of this threshold determination and a summary of the proposed mitigations was included with all the public notices mailed to adjacent property owners and published in area newspapers. Preliminary public notice of the application was mailed to adjacent property owners on July 15, 1998. Public notice of the proposal was also published in the Seattle Times on July 16th, and in the Shoreline Enterprise. The public comment period ran

until August 4, 1998 during which time 44 comment letters were received from neighborhood residents. Finally, in accordance with the requirements of Regulatory Reform, an open record public review hearing before the Planning Commission was held on September 3, 1998.

The Planning Commission hearing included review of applicable development standards in the City subdivision regulations, zoning code and stormwater management manual, together with consideration of public comments about conflict of the proposal with the established character of the neighborhood, traffic impacts, safety of schoolchildren, wetlands and stormwater management. After completing this review, the Planning Commission determined that questions remained about the proposal with respect to the proposed number of building lots, stormwater management and the existence of wetlands on the subject property. Based upon these determinations, the Planning Commission passed a motion by six votes to zero to remand the Zevenbergen application back to staff for further review and closed the public hearing.

Staff conducted the requested analysis of development density, stormwater and wetland issues and forwarded a report to the Planning Commission for consideration at their regularly scheduled meeting held on November 5, 1998. Based upon the analysis presented in the staff report, the Planning Commission determined that the proposed subdivision had the potential to comply with applicable City regulations and passed a motion by six votes to one to recommend approval of the proposal, with conditions, to the Shoreline City Council.

In keeping with the provisions of the Section 16.35 of the Shoreline Municipal Code governing land use hearings and appeals, staff forwarded a report of the Planning Commission review and recommendation to the City Clerk on December 11, 1998. A notice of this action was mailed to all parties of record on December 10, 1998, informing them of the required 14 day period for filing an appeal of the Planning Commission recommendation and/or SEPA threshold determination. On December 23, 1998, a group of 25 neighborhood residents (with Jane Cho acting as contact person) filed an appeal of both the Planning Commission recommendation for preliminary subdivision approval and the Mitigated Determination of Non-Significance (MDNS) issued for this proposal under SEPA.

In response to this appeal, a closed record public hearing was scheduled to be held before the City of Shoreline Hearing Examiner on Wednesday, February 10, 1999 at 7:00 p.m. in the Mount Rainier Room of the Shoreline Conference Center. Formal notice of the appeal hearing was published in The Seattle Times on January 31, 1999. The initial notice of the hearing indicated that the hearing on the SEPA appeal would be an open record hearing; following receipt of a letter from the applicant objecting to that procedure and noting their legal issues, upon the advice of the City Attorney, it was determined that the entire appeal hearing would be a closed record appeal. All parties of record were then notified of that change.

G. Conditions Applied to Plat including SEPA

The following conditions and SEPA mitigations were applied to the Preliminary Plat:

1. The applicant shall provide a children's play area of no less than 20' by 20' at the southern end of the proposed turn around of Access Tract A. The play area may be dedicated by an easement and shall provide a minimum of one bench for seating, children's play apparatus, and otherwise conform with the requirements of subsection 18.19.190 of the Shoreline Zoning Code.
2. The applicant shall revise the proposed design of Access Tract A to provide a minimum public right of way width of 32 feet.
3. Access Tract A (as revised by other subdivision approval conditions) shall be dedicated to the City of Shoreline as a public right of way.
4. The required public road shall be constructed to the specifications provided in the King County Road Standards.
5. In order to minimize the potential for additional on street parking on public roads, each lot to be created by the proposed subdivision shall provide a minimum of four vehicle parking spaces (two covered and two uncovered).
6. As part of the materials required for final approval of the proposed subdivision, the applicant shall submit a traffic control plan that provides for the safe use of the existing public road system by pedestrians and vehicles through all phases of the construction process.
7. The applicant shall either, install fire sprinkler systems in each house built on lots 1, 2, 3, 4, 12, 13 and 14 of the proposal, or extend the length of the proposed vehicle turnaround eastwards by a minimum of 5 feet.
8. The water main system serving the proposed subdivision shall be resized to use either, a minimum pipe diameter of 8" for a system with deadends greater than 50' in length, or, 6" diameter pipe for deadends of less than 50' in length, or 6" diameter pipe if the system is a complete loop design.
9. Prior to final plat approval, the applicant must establish a set of covenants, conditions, and restrictions (CC and R's) that provide for the maintenance and repair of all commonly owned facilities, such as landscaping, street lighting and children's play area, by property owners in the proposed development. These CC and R's must be reviewed and approved by the City and recorded with the King County Auditor.

Applicable SEPA mitigations which are applicable include:

1. Earth

A. The applicant shall submit a Soils Report that evaluates the suitability of the existing fill placed in the eastern portion of the property for supporting house foundations and other improvements required for new residential development.

2. Stormwater

A. Prior to the submission of an application for final plat approval, the applicant shall submit a survey and analysis of the downstream stormwater management system running from the intersection of NW 180th Street and 6th Avenue NE to the intersection of 6th Avenue NE and NW 176th Street. The analysis shall evaluate the adequacy of the present 12" diameter pipe with respect to upstream neighborhood flows currently being collected as well as the flows to be expected from the discharge of the proposed subdivision.

3. Plants

A. Prior to the submission of an application for final plat approval, the applicant shall submit a plan that provides for the preservation of all significant trees (12" or greater trunk diameter at breast height) located outside of identified access road, driveway and building footprints.

B. The applicant shall include with the plan required under A, above, a written report identifying specific protection methods to be used for each identified tree during and after site clearing and development.

4. Aesthetics

A. Any houses built on Lots 4 and 7 of the proposed plat shall have their sides facing the public rights of way modulated for depth and have windows installed so as to relieve the potential for a blank wall.

5. Transportation

A. All lots in the proposed subdivision that require direct access onto NW 180th Street or 6th Avenue NW shall use joint access driveways whenever possible.

B. Prior to the submission of an application for final plat approval, the applicant shall submit plans for the installation of sidewalks, ADA ramps, curbing and gutter, together with appropriate drainage structures at all four quadrants of the intersection of NW 180th Street and 6th Avenue NW. These plans shall also provide for an appropriate transition to the existing terrain surface.

C. In order to preserve vehicle and pedestrian safety, the applicant shall install street lighting at the intersection of 6th Avenue NW and NW 180th Street, the intersection of Access Tract A and 6th Avenue NW, and at the intersection of Access Tract B and NW 180th Street. Operating and maintenance expense of these lights shall be the responsibility of the lot owners.

H. Appeal Issues

The appeal document filed by Jane Cho (and others) on December 23, 1998 (Attachment B), asks for denial of the preliminary subdivision application, withdrawal of the SEPA MDNS issued for the proposal, and issuance of a Determination of Significance (preparation of an EIS), based upon the following flaws in the project review process followed by the City of Shoreline:

I. The City of Shoreline inappropriately limited the amount of time allowed to each citizen for the presentation of oral testimony at the September 3, 1998 public hearing and notified citizens that no additional comment would be allowed at the November 5 Planning Commission review meeting. This notification had the effect of deterring citizen attendance at the Planning Commission

2. The SEPA Mitigated Determination of Non-Significance issued for this proposal on July 13, 1998, fails to adequately mitigate a range of identified environmental impacts, thereby allowing a range of potential significant impacts to be imposed by this project on the environment.

3. The proposed subdivision is not in the public interest (as defined under RCW 58.17.110) due to it threatening the public safety and welfare and failing to adequately provide for open spaces, surface water management, existing roads and traffic, traffic safety, recreation and school spaces. The appellants also content that the proposed subdivision is inconsistent with the character of the surrounding community.

PUBLIC HEARING:

On February 10, 1999, the Hearing Examiner held the public hearing on the appeals. The hearing was opened at 7:00 p.m. in the Mount Rainier Room of the Shoreline Conference Center and was closed at 9:30 p.m.

At the beginning of the public hearing the Hearing Examiner indicated that he had visited the site, listened to the tapes and reviewed the record. He indicated the procedure for the hearing and noted that the burden of proof is on the appellant. Each witness was asked to affirm that the information they would provide was accurate and true.

Two objections were raised regarding the conduct of the public hearing:

1. Objection by the Appellant that the hearing on the MDNS should be an open record hearing:

It was ruled by the Hearing Examiner that both items would be considered in a closed record hearing:

2. Objection by the Applicant and the City of Shoreline to the list of 9 exhibits identified by the Appellant on the basis that they were not made part of the record before the Planning Commission.

It was ruled by the Hearing Examiner that he would accept Item E (O'Connell exhibits from 9/3/98 public hearing) and Item G (Transcript of meeting of Shoreline Planning Commission, November 5, 1998).

Testimony was offered at the public hearing by the City of Shoreline, the appellants and the applicant. Testimony was offered as follows:

City of Shoreline:

James Holland, Project Manager
Bruce Disend, City Attorney

Appellants:

Catherine Shaffer
Michael O'Connell
Jane Cho

Dennis Bruce attempted to testify, but objections were raised by the Applicant and the City since he was not on the list of appellants. The Hearing Examiner did not take further testimony from him.

Applicant:

Courtney Kaylor
John C. McCullough
Gary Cooper

Testimony of the City of Shoreline responded directly to the issues of the appeal and emphasized the conditions and mitigations which had been applied to the approval of the preliminary plat.

The staff identified the following provisions of the Shoreline Municipal Code (SMC) control the process followed by the City for public review of applications for preliminary formal (long) subdivision, SEPA review, and the conduct of public hearings.

- Shoreline Municipal Code, Chapter 16.35, General Provisions for Land Use Hearings and Appeals; SMC 16.35.010, Limitations on the number of hearings
No more than one open record hearing and one closed record appeal shall be heard on any land use application, except for the appeal of a determination of significance as provided in RCW 43.21C.075.

- City Resolution NO. 130, A Resolution of the City of Shoreline, Washington, Revising Resolution NO. 88 To Clarify the Rules of Procedure for Open and Closed Record Hearings Before Hearing Bodies

Section 5: Nature of Proceedings, 5.1 Expeditious Proceedings

It is the policy of the City of Shoreline that, to the extent practicable and consistent with requirements of law, public hearings shall be conducted expeditiously. In the conduct of such proceedings, the Hearing Body, City staff and all other parties, or their agents, shall make every effort at each stage of a proceeding to avoid delay.

Section 6: Rights and Responsibilities of Parties:

- 6.1 Rights of City

The City staff shall have the right to present evidence and testimony, object, make motions, arguments, recommendations and all other rights essential to a fair hearing.

- 6.2 Rights of Applicant

Every applicant or appellant shall have the right of notice, cross examination, presentation of evidence, objection, motion, argument, and all other rights essential to a fair hearing. The applicant shall have right to timely access to the City's staff report.

- 6.3 Rights of Parties of Record

Every party of record shall have the right to present evidence and testimony at hearings. The right of parties of record to cross-examine, object, submit motions and arguments shall be at the discretion of the Hearing Body. The Hearing Body may impose reasonable limitations on the number of witnesses heard and the nature and length of their testimony.

Section 8: Hearing:

- 8.1.b Hearings: The Presiding Officer shall have all the authority and duties granted in state statutes, SMC and other City rules or ordinances. Included in the duties of the Presiding Officer are the following: to conduct fair and impartial hearings; to take all necessary action to avoid delay in the disposition of proceedings; and, to maintain order. The Presiding Officer shall have all powers necessary to that end,

Section 9: Conduct of Hearings

- 9.5 Development of Record at the Public Hearing

A public hearing usually will include, but not be limited to, the following elements: a brief introductory statement of the Hearing Body's process by the Presiding Officer, a report by the departmental staff that shall include introduction to the official file, reference to visual aids and a summary of the recommendation of the Department; testimony by the applicant or petitioner and cross examination of these witnesses; testimony in support; testimony of opposing parties; opportunity for cross-examination and rebuttal; and, opportunity for questions by the Hearing Body.

- 9.8 Evidence. b. Admissibility

The hearing generally will not be conducted according to strict legal rules relating to evidence and procedure. Any relevant evidence shall be admitted if it is the type that possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. The rules of privilege shall be effective to the extent recognized by law. The Hearing Body shall have discretion on the admissibility of all evidence.

Staff also summarized the provisions of the Revised Code of Washington, Chapter 58.17, Plats, Subdivisions and Dedications relative to the requirements for a preliminary plat and a final plat. They also reviewed the Subdivision Standards, Title 17, Shoreline Municipal Code. Surface Water Management, Title 13.10, Shoreline Municipal Code City of Shoreline Zoning Code, Title 18 Shoreline Municipal Code, King County Road Standards,

The staff also summarized sepa authority and requirements including: SEPA Rules, Chapter 197-11 of the Washington Administrative Code with emphasis on the following sections:

- Impacts, WAC 197-11-060 (4)
- Threshold Determination Process, WAC 197-11-330
- Mitigated DNS, WAC 197-11-350
- Substantive Authority and Mitigations, WAC 197-11-660

The Appellants emphasized the items in their briefs (Exhibits G-1 and G-2) including :

- Procedural problems with notices and the hearings which created an inability to form a proper and complete public record;
- Lack of findings defining the public interest which are required in RCW 58.17.110;
- Specific issues with the SEPA analysis and determination including:
 - Critical Drainage Area
 - Safety, particularly for children walking to school
 - Insufficient park are on the site
 - Character of the neighborhood
 - Noise
 - Impact on schools
 - Removal of significant trees
 - Endangered species act
 - Wetlands; and
- Size of lots in the proposed project being about half the average in the surrounding neighborhood.

The Applicant noted that the City had met all procedural requirements and that all of the environmental issues raised by the appellant were adequately covered by the mitigations attached to the MDNS. They reviewed each of the issues raised by the appellant related to SEPA and noted that an appropriate mitigation had been made for each issue. They noted that community / neighborhood character is not an element of the environment and that Puget Sound salmon have not yet been placed on the endangered species list.

After all parties had testified each was asked to summarize their final points. The City did not have additional comments. The Appellant summarized their key issues and asked at a minimum that the case be sent back to the Planning Commission to conduct another hearing. The Appellant argued that the appeals should be denied and that a recommendation for approval of the Preliminary Plat should be sent to City Council.

FINDINGS:

1. Conduct of the November 5, 1998 Public Hearing by the Planning Commission was not consistent with the provisions of Resolution 130. The Public Hearing had been closed on September 3, 1998 and public notices indicated that no new testimony or evidence would be accepted on November 5, 1998. Public testimony was received without notice to all parties of record.
2. At the September 3, 1998 public hearing the limitation on the time for testimony is the prerogative of the Chair; however, it must be reasonable.
3. As noted by the appellant, no specific findings of "Public Interest" were made per WAC 58.17.110. Most of the items included in these provisions are included in the general discussion of Findings of Fact; however it should be explicit.
4. The appellants raise numerous issues with the adequacy of the MDNS to impose sufficient conditions to reduce adverse impacts of the project on the environment including:
 - a. Safety of children walking to school
 - b. Traffic safety
 - c. Public Safety
 - d. Character of the Community
 - e. Stormwater Impacts from Removal of Vegetation and Increases in Impervious Surfaces
 - f. Harm to Adjacent and Nearby Properties
 - g. Noise
 - h. Wetlands
 - i. Endangered Species
 - j. Adverse impact on schools.

It appears that the staff reasonably considered these items in an appropriate manner except character of the community and endangered species.

5. Although there are mandates for a timely public hearing process, that must be balanced against the rights of the parties of record to present evidence and testimony at hearings.
6. It appears that the Planning Commission has some limited flexibility in the number of lots allowed on this site as well as the requirement to consider the broad public interest and impact on the neighborhood under both State regulations and Shoreline Municipal Code requirements. 5. The Shoreline Municipal Code - Interest of Public Welfare, SMC 17.08.050, states:
The proposed subdivision and its ultimate use shall be in the best interests of the public welfare and the neighborhood development of the area and the subdivider shall present evidence to this effect when requested by the City Manager or his/her designee.

CONCLUSIONS:

1. The Public Hearing procedures of the Planning Commission were flawed in that the notice for and the conduct of the November 5th meeting before the Planning Commission was improper.

a. The Public Hearing was officially closed on September 3, 1998. The subsequent public notice sent out to parties of record by the City specifically stated that no additional testimony would be taken. At the November 5, 1998 meeting the Chair of the Planning Commission did open the meeting to additional public testimony. There was a public objection to this procedure; however it was essentially ignored and the Chair then asked if the applicant or a representative of the applicant wanted to say anything. There was no objection by City Staff or the Applicant that this was not an appropriate action under City Resolution 130. The applicant argued at the appeal hearing that under Resolution 130, Section 11.3 the "...Hearing Body may reopen the proceedings for the reception of further evidence."; however, they did not include all of the provisions of Section 11.3 which requires that all parties of record shall be given notice to review such evidence and file rebuttal arguments.

b. At the September 3, 1998 public hearing the Planning Commission asked for more information from the staff. Resolution No. 130, Section 9.7 provides for continuances of hearings if "...more information is necessary in order to make a recommendation or decision..." This would have been an acceptable procedure which would have indicated to the public that they would have an opportunity to testify on the additional information being requested from the City staff prior to the Planning Commission making a decision.

2. Although the two minute time limit established by the Chair of the Planning Commission may have restricted the time of those in opposition to the project to speak, it is within the prerogative of the Chair to make such a determination in order to conduct a timely hearing. Whether two minutes is an adequate amount of time is something the Planning Commission may wish to discuss and reconsider. Allowing a representative of a large group to have more time, but limit individuals within the group, may also be an option.

3. The public notices which were sent out by the City of Shoreline, although mentioning the SEPA determination did not specifically state that testimony on the SEPA determination would be appropriate or taken by the Planning Commission. In reviewing the record; however, most of the items were discussed in the context of the preliminary subdivision. It would be helpful to clarify that in the notice.

4. The provisions of RCW 58.17.110(2) regarding written findings are very explicit. Although the staff report covers most of these items, it is important that specific written findings be made as defined in the following:

(2) A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that:

(a) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and

(b) the public use and interest will be served by the platting of such subdivision and dedication.

DECISION:

Based on the above Finding and Conclusions the appeal is partially granted and partially denied.

1. The request to require the City of Shoreline to complete an Environmental Impact Statement is denied.
2. The request to remand this matter for a full and complete public hearing on both the subdivision and the MDNS determination is granted.

The Hayley Estates Preliminary Subdivision (File No. 198-00380) is hereby remanded back to the City staff and the Planning Commission for a entirely new SEPA review, publication process and public hearing and recommendation to City Council.

a. The SEPA procedure will include any revisions to the previous documents deemed appropriate by the SEPA Responsible Official and new notices, publications and public comment period. It is recommended that the public notices spell out the ability of citizens to make comment on the SEPA determination at appropriate public hearings.

b. The Planning Commission will rehear the case at a public hearing meeting all required public notice requirements and City of Shoreline hearing procedures. Such hearing shall be conducted in a manner which will allow adequate time to make a full public record and will consider the mitigation included in the MDNS determination. Specific written findings meeting the provisions of RCW 58.17.110 will be made. Careful consideration of the density allowed and the "best interest of the public welfare and neighborhood development" should be made.

EXHIBITS:

Exhibit A Appeal of Zevenbergen Preliminary Long Subdivision Application
 Submitted by Jane Cho et al
 Filed with City Clerk's Office December 23, 1998

Exhibit B Planning and Development Services Department Record for the

Zevenbergen Preliminary Long Subdivision Application
Submitted to City Clerk's Office January 4, 1999

- Exhibit C Letter to Hearing Examiner from Courtney Kaylor, Phillips,
McCullough, Wilson, Hill & Fikso Law Firm, applicant's attorney
Dated January 25, 1999
Received by fax on January 25, 1999
- Exhibit D "Notice of Appearance" and "Declaration of Service" from Phillips,
McCullough, Wilson, Hill & Fikso Law Firm, applicant's attorney
Dated January 25, 1999
Received by fax on January 25, 1999
- Exhibit E Letter from Ruth Ann Rose, Deputy City Clerk to Jane Cho,
appellant contact and Courtney Kaylor, applicant's attorney
(Response to Exhibit C)
Dated and mailed January 28, 1999
- Exhibit F Staff Report to the Hearing Examiner
Submitted by James Holland, Planning and Development Services,
City of Shoreline
Not dated - Received in City Clerk's Office on January 29, 1999
- Exhibit G-1 "Brief In Support of Appeal of Preliminary Plat Approval Regarding
Zevenbergen Long Subdivision" signed by Catherine Shaffer (an
appellant)
Dated February 2, 1999
Submitted by Jane Cho, appellant contact on February 2, 1999
- Exhibit G-2 Document titled: "In the matter of an appeal of the SEPA Threshold
Determination, Mitigated Determination of Non-Significance issued
for plat of Hayley Estates, 640 N.W. 180th Street, Shoreline" signed
by Michael O'Connell (an appellant). Only Exhibits E and G to
this brief were ruled admissible for the record at the public hearing.
Dated February 2, 1999
Submitted by Jane Cho, appellant contact on February 2, 1999
- Exhibit H "Letter Brief" from Courtney Kaylor, Phillips, McCullough, Wilson,
Hill & Fikso Law Firm, applicant's attorney
Dated February 3, 1999
Received by fax on February 3, 1999
- Exhibit I Letter to Hearing Examiner from James Holland, Planning and

Development Services, City of Shoreline
Dated February 3, 1999
Received in City Clerk's Office on February 3, 1999

Exhibit J Letter to Hearing Examiner from Courtney Kaylor, Phillips,
McCullough, Wilson, Hill & Fikso Law Firm, applicant's attorney
Dated February 4, 1999
Received by fax on February 4, 1999

Exhibit K "Declaration of Service" from Phillips, McCullough, Wilson, Hill &
Fikso Law Firm, applicant's attorney
Dated February 4, 1999
Received by mail on February 5, 1999

Exhibit L Chart of site (denotes driveway locations)
Submitted at hearing by Catherine Shaffer (an appellant)

PARTIES OF RECORD:

Lynscot A. Corporation
20351 Greenwood Avenue N.
Shoreline, WA 98133

Rosemary Ryan
620 N.W. 182nd
Shoreline, WA 98177

Jill Owen
129 North 181st
Shoreline, WA 98133

Catherine Shaffer
17522 - 6th Avenue N.W.
Shoreline, WA 98177

Mike and Susan Estep
17904 - 2nd Avenue N.W.
Shoreline, WA 98177

Edward and Victoria Tyler
18012 - 4th Avenue N.W.
Shoreline, WA 98177

Randal Jones
18209 - 6th Avenue N.W.
Shoreline, WA 98177

Janet Curran
422 N.W. 180th
Shoreline, WA 98177

John and Mary Haase
17831 - 5th Avenue N.W.
Shoreline, WA 98177

Matthew & Anjeanette Yglesias
617 N.W. 182nd Street
Shoreline, WA 98177

Courtney Kaylor, Attorney
Phillips, McCullough, Wilson, Hill & Fikso
2025 First Ave., Suite 1130
Seattle, WA 98121-2100

John C. McCullough, Attorney
Phillips, McCullough, Wilson, Hill & Fikso
2025 First Ave., Suite 1130
Seattle, WA 98121-2100

Amelia Bowers
634 N.W. 178th Place
Shoreline, WA 98177

Ann Lynn Koski
16025 Dayton Ave. N.
Shoreline, WA 98177

Barbara Biddle
630 N.W. 185th Street, #2
Shoreline, WA 98177

Greg Feise
336 N.W. 177th Street
Shoreline, WA 98177

Laura Mae Brown
333 N.W. 185th Street
Shoreline, WA 98177

Walt Hagen
711 North 193rd Street
Shoreline, WA 98133

Laura Lind
646 N.W. 178th Place
Shoreline, WA 98177

Tim and Patty McCauley
17804 - 6th Avenue N.W.
Shoreline, WA 98177

Roger W. Day
1035 N.W. 166th Street
Shoreline, WA 98177

Robin Montero
641 N.W. 175th Street
Shoreline, WA 98177

Gala Lindvall
18005 - 3rd Avenue N.W.
Shoreline, WA 98177

Noelle Crandall
827 N.W. 180th Street
Shoreline, WA 98177

Larry and Isabel Geraghty
19634 - 10th Terrace N.W.
Shoreline, WA 98177

Mike Holloway
19614 Greenwood Pl. N.
Shoreline, WA 98177

John and Nancy Zevenbergen
640 N.W. 180th Street
Shoreline, WA 98177

Roman and Sofia Polas
623 N.W. 182nd Street
Shoreline, WA 98177

Dennis Bruce
17814 8th Avenue N.W.
Shoreline, WA 98177

Sharon Koons
309 N.W. 178th Street
Shoreline, WA 98177

Betty L. Cruden
17617-6th Ave. NW
Shoreline, WA 98177

Patricia & Victor Knight
637 NW 182nd St.
Shoreline, WA 98177

Dang & W. Lindgren
18417-3rd Pl. NW
Shoreline, WA 98177

Collins Residence
18004-1st Ave. NW
Shoreline, WA 98177

Angela Nouwens
18412-3rd Pl. NW
Shoreline, WA 98177

Earl & Helen Baer
640 NW 180th St.
Shoreline, WA 98177

Mary Holland Leonard
16775 – 16th Ave. NW
Shoreline, WA 98177

Steve Medalia
631 NW 178th Ct.
Shoreline, WA 98177

Jane & Paul Cho
17845-5th Ave. NW
Shoreline, WA 98177

Steven & Barbara Fiske
610 NW 178th Court
Shoreline, WA 98177

Fran Hamburg
356 NW 182nd St.
Shoreline, WA 98177

Resident
835 NW 180th St.
Shoreline, WA 98177

Rice Residence
351 NW 182nd St.
Shoreline, WA 98177

Lillian & David Hancock
652 NW 178th Pl.
Shoreline, WA 98177

Susan S.G. Wierman
607 Wilton Road
Towson, Maryland 21286

Brian C. McCulloch, CLU
633 NW 180th St.
Shoreline, WA 98177

Robert Kristjanson
625 NW 180th St.
Shoreline, WA 98177

Michael & Catherine Henderson
17822-5th Ave. NW
Shoreline, WA 98177

Ben Douglas
17832-4th Ave. NW
Shoreline, WA 98177

John & Judy Guich
315 NW 182nd St.
Shoreline, WA 98177

Donald & Frances Alford
357 NW 182nd St.
Shoreline, WA 98177"

Cheryl & Bill Beauniaux/Nugent
605 NW 182nd St.
Shoreline, WA 98177"

Dick & Carol Greenwood
817 NW 177th Pl.
Shoreline, WA 98177"

Frank & Dianne Suhara
18036-8th Ave. NW
Shoreline, WA 98177"

Mark Williams
18020-4th Ave. NW
Shoreline, WA 98177"

Thelma & Bruce Finke
17819-5th Ave. NW
Shoreline, WA 98177"

April Seamon
336 NW 177th St.
Shoreline, WA 98177

Warren Lindgren
18417-3rd Pl. NW
Shoreline, WA 98177"

Michael P. O'Connell
620 NW 182nd St.
Shoreline, WA 98177"

Ken & Diane Cottingham
350 NW 175th St.
Shoreline, WA 98177"

J. Wesley Sage
1023 NW 166th St.
Shoreline, WA 98177"

Scott Inglebritson
17522-6th Ave. NW
Shoreline, WA 98177"

Ben & Joan Snowden
615 NW 183rd St.
Shoreline, WA 98177"

Nancy Walker
17849-4th Ave. NW
Shoreline, WA 98177"

Virginia Botham
16334 Linden Ave. N.
Shoreline, WA 98133"

William H. Derry
1042 NW 179th St.
Shoreline, WA 98177"

Ardis Alfrey
631 NW 182nd St.
Shoreline, WA 98177

Paula & Ed Williams
835 NW 180th St.
Shoreline, WA 98177"

Homer & Shirley McKinney
17607-6th Ave. NW
Shoreline, WA 98177"

Roberta M. Moseley
16837-1st Ave. NW
Shoreline, WA 98177"

Don Meehan
17824-4th Ave. NW
Shoreline, WA 98177

Clayne & Sharon Leitner
17829-4th Ave. NW
Shoreline, WA 98177

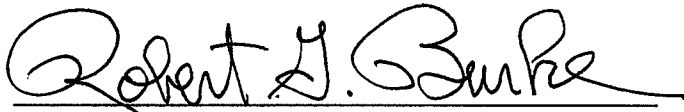
Mr. Robert B. Gardner
Dunlap & Soderland, P.S.
1550 Bank of Calif. Center
900 Fourth Avenue
Seattle, WA 98164

Mark Owen
Sunset Elementary School
17800-10th Ave. NW
Shoreline, WA 98177

Bill Graupmann
605 N.W. 180th Street
Shoreline, WA 98177

Claudette Rocker
17843 - 6th N.W.
Shoreline, WA 98177

Entered this 24th day of February, 1999. The decision of the Hearing Examiner shall be the final decision of any appeal.



Robert G. Burke, Hearing Examiner

APPEAL:

Pursuant to Ch. 347 of 1995, Sec. 705, this decision may be appealed by filing a land use petition in Superior Court and serving all persons entitled to service under 705 within 21 calendar days of the date the decision was mailed to the parties of record. At the end of the 21 day period, if no appeal has been filed, the decision of the Hearing Examiner shall become final and any appeal is thereafter barred. The last day for filing an appeal is March 18, 1999. The appeal must be filed with King County Superior Court, King County Clerk's Office, Room E-609, King County Courthouse, 516 Third Avenue, Seattle, Washington.